

**STATE OF CALIFORNIA
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION
Held on January 21, 2016
West Covina, California**

PRESENT:

Art Carter, Chair
Ed Lowry, Member
Judith Freyman, Member
Neil Robinson, Presiding Administrative Law Judge
Ursula Clemons, Presiding Administrative Law Judge
Autumn Gonzalez, Industrial Relations Counsel
Aaron Jackson, Industrial Relations Counsel
Lee Berlin, Staff Services Manager
Janis Jonas, Management Services Technician

MINUTES OF January 7, 2016 MEETING:

(Approve or amend minutes of previous Board meeting)

ACTION: Member Lowry moved that the Board approve the draft minutes of the January 7, 2016 Board meeting as amended. Member Freyman seconded. The Board voted to approve the draft minutes of the January 7, 2016 Board meeting as amended.

NEW BUSINESS:

(The Appeals Board hears and discusses new reports presented by staff.)

ACTION: No report.

OLD BUSINESS:

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

ACTION: No report.

LEGISLATION:

(Review and discuss current legislation which may affect the Appeals Board)

ACTION: No report.

CHAIRPERSON'S REPORT:

(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)

ACTION: Chair Carter will attend the Advisory Council Meeting on February 11, 2016 in Oakland.

BOARD MEMBERS' REPORTS:

(Hear reports from Board Members on activities and issues affecting the Appeals Board.)

ACTION: Member Judith Freyman took the oath of office for a new four-year term as a Board Member after her appointment by the Governor.

EXECUTIVE OFFICER'S REPORT:

(Report regarding administrative matters)

OPERATIONS UPDATE:

ACTION: Interim Executive Officer Han Ha has begun her leave.

STAFF REPORTS:

(Reports from the Presiding ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

1. REGULATORY/GENERAL PILOT PROJECT

ACTION: PALJ Robinson reported on this project. Chair Carter explained that statistics for this project and some other customary Board reports will be suspended until the new computer system is in place.

2. OASIS PROJECT:

ACTION: PALJ Robinson reported that the project is on schedule. The project team has three weeks to redesign letters and forms for use in OASIS. The OASIS team has planned a demonstration for the Board on March 3, 2016 and for stakeholders the following week. Further staff and stakeholder training sessions are being planned. Testing of OASIS will be done by all staff members and training will be completed before the "go live" date.

3. LITIGATION UPDATE:

ACTION: Counsel Jackson said there are two case management conferences coming up. There is a court appearance scheduled on February 1, 2016.

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

PUBLIC COMMENT:

(Public comment will be entertained during discussion of each agenda item of the Open Meeting.)

ACTION: NONE

The Board recessed to its closed session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

DAVEY TREE SURGERY CO., 13-R2D3-1018 THROUGH 1021

ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

MORROW-MEADOWS CORPORATION-12-R4D1-0717 THROUGH 0719

ACTION: The Board directed the Summary Table be amended to verify the correct Penalty Proposed by DOSH at Hearing. Otherwise the Board took no action on this matter.

PETITIONS FOR RECONSIDERATION:

NONE

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

NONE

ORDERS DISMISSING APPEAL:

GARY BOTHUN DBA BOTHUN TURKEY FARM, 15-R2D4-0137
DAVID DORNAN DBA ALBORZ RESTAURANT, 15-R1D4-0354
MARCO VELASQUEZ-MENDOZA DBA ORNAMENTAL IRON PROS,
15-R6D5-2718 AND 2719

ACTION: Member Lowry moved that the Board approve these Orders Dismissing Appeal from Administrative Law Judges. Member Freyman seconded. The Board voted to approve these Orders Dismissing Appeal from Administrative Law Judges.

MATTERS INVOLVING LATE APPEALS:

(These are matters such as orders dismissing appeal, orders granting leave to file late appeal and orders denying leave to file late appeal)

ORDER DENYING LATE APPEAL
NONE

ORDER GRANTING LATE APPEAL

A & B FIRE PROTECTION AND SAFETY, INC., 15-R6D7-4689 THROUGH 4691
ACTION: Member Lowry moved that the Board approve this Order Granting Leave to File Late Appeal of an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order Granting Leave to File Late Appeal of an Administrative Law Judge.

ORDERS AFTER REMAND

GOLDEN STATE WARRIORS, 15-R1D4-4454 AND 4455
ACTION: Member Lowry moved that the Board approve this Order of Remand of an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order of Remand of an Administrative Law Judge.

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

ACTION METAL RECYCLING, INC., R2D2-1125 THROUGH 1126
ACTION: Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature. Member Freyman seconded. The Board voted to approve this draft Decision After Reconsideration for signature.

BURTECH PIPELINE, INC., 13-R3D2-0830 AND 0831
CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364

EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
ACTION: The Board discussed this matter.

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EMPLOYER SOLUTIONS STAFFING GROUP II, LLC, 12-R3D6-3207

ACTION: Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature. Member Freyman seconded. The Board voted to approve this draft Decision After Reconsideration for signature.

FASTEMPS INC., 12-R3D6-3208

ACTION: Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature. Member Freyman seconded. The Board voted to approve this draft Decision After Reconsideration for signature.

HERMAN WEISSKER, INC., 13-R3D1-3279

L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822

McCARTHY BUILDING CO., INC., 12-R1D4-3458

MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854

ACTION: The Board discussed this matter.

MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374

OC COMMUNICATIONS, 14-R2D2-0120, 0166 and 0340

ACTION: The Board discussed this matter

SIERRA FOREST PRODUCTS, 09-R2D5-3979

SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562 THROUGH 2570

W.A. RASIC CONSTRUCTION, INC., 13-R3D1-2952

ACTION: Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature. Member Freyman seconded. The Board voted to approve this draft Decision After Reconsideration for signature.

LEGISLATION:

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

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1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
3. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
4. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
5. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
6. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
7. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
8. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
9. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
10. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
11. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
12. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
13. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
14. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
15. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
16. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
17. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
18. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
19. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
20. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)

21. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
22. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
23. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
24. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
25. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
26. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
27. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
28. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
29. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
30. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
31. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204 (12-R3D1-0781)
32. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
33. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
34. TRI STATE STAFFING, 12-R6D2-0378
35. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
36. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)

APPELLATE COURT:

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)

3. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456
(11-R2D1-2217 ~ 2219)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-
2011-80000965, (10-R6D2-0188 THROUGH 0191)

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

AMERICAN CARPORTS INC, 15-R2D3-4384 THROUGH 4386
ANDY'S PRECISION SEAL & STRIPE, INC. DBA APSS, INC., 15-R4D1-2578
THROUGH 2580
BLUE STAR GAS, 15-R2D3-4364
BROTHERS NURSERY INC., 15-R6D2-3006
CERTIFIED ALLOY PRODUCTS, INC., 15-R3D5-0050 THROUGH 0052
CHINO AUTO REPAIR, LLC., 15-R6D5-4503 AND 4504
CITY OF STOCKTON, DEPT OF MUNICIPAL UTILITIES, 15-R2D4-1311
C & K MARKET, INC., 15-R2D1-2464 THROUGH 2466
CLEVELAND WRECKING COMPANY, 15-R3D2-2147
CONTECH ENGINEERED SOLUTIONS LLC, 15-R2D3-4512
CONTRACT SERVICES GROUP, 15-R3D5-2703
COUNTRY SWEET PRODUCE, INC., 15-R6D5-4175 THROUGH 4177
DATKAM CONSTRUCTION, INC., 15-R6D5-3782 THROUGH 3785
DAY-LITE MAINTENANCE COMPANY INC., 14-R3D3-1825 THROUGH 1828*
DIDAR SINGH BAINS, 15-R2D1-3489
DONALD P DICK AIR CONDITIONING, INC., 15-R6D5-1856 AND 1857
FOOK WONG PAINTING INC, 15-R1D4-1067 THROUGH 1070*
FUTURE PLASTERING, INC., 15-R2D1-2355
GERARDO RAMIREZ CHAVEZ, 15-R1D4-2349 THROUGH 2352
GORDON HAY, INC., 15-R4D4-2441
HARA NO SHITA DE HOLDINGS, LLC. DBA UNDERBELLY, 15-R3D2-2455
AND 2456
JACKSON PROPERTIES, INC. DBA JACKSON CONSTRUCTION, 15-R2D1-2638
J.M. CABINETS, INC., 15-R6D1-1650
KENT'S MEATS & GROCERIES, 15-R2D3-4387 AND 4388
KIM WONG PLUMBING, INC., 15-R4D4-2329 THROUGH 2331
LIBERTY GLASS FABRICATORS INC, 15-R3D3-4225 THROUGH 4229
MATSUDA'S BY GREEN ACRES LLC, 15-R6D1-1977
PATRICIA MELENDREZ DBA BEST CUSTOM LABOR, 14-R1D2-1166 AND 1167
MEMO'S FARM LABOR SERVICES, INC, 15-R2D5-4045

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MOTIVE SYSTEMS ENGINEERING CORP DBA STROPPINI ENTERPRISES,
15-R2D1-4210
MUSE CONCRETE CONTRACTORS INC, 15-R2D3-4211

NAZARIO DOMINGUEZ-TRUJILLO DBA DOMINGUEZ FARMS, 15-R1D2-3047
AND 3048*
NAZARIO DOMINGUEZ-TRUJILLO DBA DOMINGUEZ FARMS,
15-R1D2-3049 AND 3050*
OLDCASTLE PRECAST, INC., 15-R2D4-0955
OMEGA EXTRUDING CORP OF CALIFORNIA, 15-R4D4-3128 THROUGH 3135
DALE OWENS DBA OWENS TREE SERVICE, 15-R2D1-2975 AND 2976
PALMS AT INDIAN HEAD, INC., 15-R3D2-2265 THROUGH 2267
PARAMOUNT PICTURES, 15-R4D1-4479
PHILLIPS 66, 15-R7D1-2430
HUGO AIDAIL QUEVEDO SR DBA QUEVEDO TRUCKING, 15-R3D3-4243
RECALL TOTAL INFORMATION MANAGEMENT, INC., 15-R1D4-4532
THROUGH 4533
REED PAINTING INC., 15-R2D3-3718 AND 3719*
R L HAVENS CONSTRUCTION, 15-R1D4-3740
SAN BERNARDINO CITY USD – ARROYO VALLEY HIGH SCHOOL, 15-R3D3-4473
SANSON TIRES, 15-R4D7-1078 THROUGH 1080
SIERRA PACIFIC INDUSTRIES, 15-R2D3-3689
SINGH TRUCK SERVICES, LLC. DBA IMPERIAL TRUCK WASH AND REPAIR,
15-R6D5-4068 THROUGH 4071
SOLAR SERVICE CENTER INC DBA SOLAR ELECTRIC SERVICE CENTER INC.,
14-R3D3-1222 THROUGH 1225*
SUNPOL RESINS AND POLYMERS, INC., 15-R1D5-4323
TALCO PLASTICS, INC., 15-R3D5-3146
TEC EQUIPMENT, INC. DBA TEC OF CALIFORNIA, INC., 15-R1D4-4619
T. E. ROBERTS INCORPORATED, 15-R4D4-2027
TUBE-TAINER, INC., 15-R4D4-3610 THROUGH 3612
VALLEY FARM MANAGEMENT, INC., 15-R1D2-3043 AND 3044
VALLEY FARM MANAGEMENT, INC., 15-R1D2-3045 AND 3046
VONS, A SAFEWAY COMPANY – DISTRIBUTION CENTER, 15-R7D2-1536*
WELCOME MARKET, INC. DBA 99 RANCH MARKET, 15-R1D4-3959
THROUGH 3964
WESTERN ENGINEERING CONTRACTORS, INC, 15-R2D1-4093
WMJ FARMS, INC., 15-R2D5-4191 THROUGH 4193
ZANKER ROAD RESOURCE MANAGEMENT, LTD., A CALIFORNIA LIMITED
PARTNERSHIP DBA ZERO WASTE ENERGY DEVELOPMENT CO., 15-R7D1-2967
AND 2968

ACTION: Member Lowry moved that the Board approve these Orders of
Administrative Law Judges. Member Freyman seconded the motion. The

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Board voted to approve these Orders of Administrative Law Judges.
Orders with asterisks are deemed approved as amended.

PERSONNEL:

(Issues regarding staff)

NONE

The Closed Session was adjourned at 11:34am and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its ACTIONS in the Closed Session, as indicated above. The meeting was adjourned at 11:35am